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**JEFF ZAPKO**  
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Plaintiff in Pro Se

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**JEFF ZAPKO,**

Plaintiff,

v.

**STELLAR RECOVERY, INC.,**

Defendant.

Case No. **3:13 - CV - 511 BR**

**COMPLAINT**

Fair Credit Reporting Act (15 U.S.C. §  
1692); Telephone Consumer Protection Act  
(47 U.S.C. § 227)

Demand for Jury Trial

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Plaintiff alleges that at all times material:

**PARTIES**

1.

Plaintiff Jeff Zapko ("plaintiff") is a natural person residing in the State of Oregon.

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2.

Defendant Stellar Recovery, Inc. (“defendant”) is a Florida corporation engaged in the business of collecting debts in the State of Oregon, with a principle place of business located at 4500 Salisbury Rd. Suite 105, Jacksonville FL 32216. Defendant is a “debt collector” as that term is defined under 15 U.S.C. 1692(a)(6).

### **JURISDICTION**

3.

Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. §§ 1331 and 1337, and supplemental jurisdiction exists for the state law claim pursuant to 28 U.S.C. § 1367.

4.

Venue in this District is proper because the relevant acts and transactions occurred here, plaintiff resides here, and defendant transacts business here.

### **ALLEGATIONS**

5.

On August 25, 2012, defendant received letter from plaintiff notifying defendant that all telephone calls were considered to be inconvenient, requesting that all further communication be done via mail, and revoking any prior consent given to be contact via telephone.

6.

Defendant continued to make telephone calls to plaintiff:

1. On August 27, 2012;
2. On August 30, 2012;
3. On September 4, 2012;
4. On September 6, 2012;

5. On September 7, 2012;
6. On September 10, 2012;
7. On September 11, 2012;
8. On September 13, 2012;
9. On September 28, 2012; and
10. On September 29, 2012.

**FIRST CLAIM FOR RELIEF**

Fair Debt Collection Practices Act

(15 U.S.C. § 1692c)

7.

Plaintiff realleges paragraphs 1 through 6 as if fully set forth herein.

8.

Plaintiff is a consumer as defined by the Fair Debt Collection Practices Act ("FDCPA"),  
15 U.S.C. § 1692a.

9.

Defendant is a "debt collector," attempting to collect an alleged "debt" owed by plaintiff,  
who is a "consumer," as those terms are defined in 15 U.S.C. § 1692a.

10.

Defendant violated the FDCPA, 15 U.S.C. § 1692 in the following ways:

- 1) Communicating via telephone at a time and/or place that was known to be  
inconvenient.

11.

Plaintiff is entitled to statutory damages of \$1,000, pursuant to 15 U.S.C 1692k.

**SECOND CLAIM FOR RELIEF**

Telephone Consumer Protection Act

47 U.S.C. § 227

12.

Plaintiff realleges paragraphs 1 through 6 as if fully set forth herein.

13.

The TCPA prohibits a person from making any non-emergency call using any automatic telephone dialing system or an artificial or prerecorded voice to any telephone phone number assigned to a cellular telephone service. 47 U.S.C. § 227 (b).

14.

Defendant used an automatic telephone dialing system when it called Plaintiff's cellular telephone in violation of 47 U.S.C. § 227 (b)(1)(A), 47 CFR 64.1200(a)(1)(iii).

15.

Defendant willfully or knowingly violated the TCPA, 47 U.S.C. § 227, entitling plaintiff to three times the damages available under 47 U.S.C. § 227(c)(5)(B).

### **PRAYER**

Plaintiff demands a jury trial on all claims. Wherefore plaintiff prays for judgment as follows:

1. On plaintiff's First Claim For Relief:

- a. For an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);

2. On plaintiff's Second Claim For Relief:

- a. For an award of damages consistent with the TCPA, 47 U.S.C. § 227(c)(5)(B);
- b. For an award of triple the damages available under 47 U.S.C. § 227(c)(5)(B) for willful or knowing violations of the TCPA; and

c. Such other or further relief as the Court deems proper.

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DATED this 26<sup>rd</sup> day of March, 2013.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "J. Zapko" with a stylized flourish at the end.

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